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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
**JOSE DAVID GARCIA-GUTIERREZ,**  
  
Defendant.

2:19-CR-00176-RFB-VCF

**Stipulation To Extend Government's  
Time To Respond To Defendant's  
Motion For Review of Magistrate  
Judge's Detention Order (First Request)**

This is timely filed. ECF 18.

The government and Rene L. Valladares, Federal Public Defender, and Andrew Wong, Assistant Federal Public Defender, counsel for the defendant, Jose David Garcia-Gutierrez, ("Garcia"), do stipulate and agree that the government shall have an additional seven days, up to and including Thursday, August 15, 2019, in which to respond to Garcia's Motion For Review of Magistrate Judge's Detention Order, ("Motion"), ECF 16 and 17. This case is presently set for trial on or about September 23, 2019, and the brief 7-day extension agreed to herein will not disturb the trial setting.

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1 This stipulation is entered into for the following reasons:

2 1. The Government's response is presently due on Thursday, August 8, 2019.  
3 Counsel for both parties agree to the above-requested 7-day extension of time for the  
4 government to file its response to the pending Motion. Garcia is in custody pending trial  
5 but the brief 7-day extension will not disturb the September 2019 trial setting. Counsel for  
6 the defendant has represented that the defense does not oppose the proposed extension of  
7 time for the Government to file its response to the Motion.

8 2. The Motion does not include a transcript or recording of the detention  
9 hearing at issue. Government counsel obtained a copy of the recorded hearing late  
10 yesterday, August 7, but will need additional time to review it and incorporate it into an  
11 appropriate response. Additionally, the defendant's disc that was manually served on the  
12 government, ECF 17 Exhibit A, was defective. AFPD Wong provided a replacement disc  
13 late yesterday, August 7, but the government will need additional time to review it and  
14 incorporate it into an appropriate response.

15 3. The 7-day extension of time to file the government's response is not sought  
16 merely for purposes of delay. The additional time requested herein is necessary to allow  
17 the government sufficient time within which to be able to effectively and thoroughly  
18 investigate, research, and respond appropriately to the Motion. Trial is set for September  
19 23, 2019. The 7-day extension will not disturb the parties' ability to proceed to trial on that  
20 date, and is not unduly prejudicial to the defense.

21 4. The parties agree that the government shall have an additional seven days,  
22 up to and including Thursday, August 15, 2019, in which to respond to the Motion.

23 5. Denial of this request for additional time would deny the parties the  
24

opportunity of having continuity of counsel, taking into account the exercise of due diligence. Further, denial of this request could result in a miscarriage of justice and the ends of justice served by granting this request, outweigh the best interest of the public and the defendant in a speedy trial.

6. The additional time requested by this stipulation is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States Code, Sections 3161(h)(1)(D), and 3161(h)(7)(A), considering the factors under Title 18, United States Code, Section 3161(h)(7)(B)(i) and (iv).

This is the first request to extent the government's time to respond to the Motion.

DATED this 8th day of August, 2019.

RENE L. VALLADARES  
Federal Public Defender  
District of Nevada

NICHOLAS A. TRUTANICH  
United States Attorney  
District of Nevada

/s/Andrew Wong  
ANDREW WONG  
Assistant Federal Public Defender  
Counsel for Defendant

/s/ Kimberly M. Frayn  
KIMBERLY M. FRAYN  
Assistant U.S. Attorney

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

-oOo-

3 UNITED STATES OF AMERICA, )

4 Plaintiff, )

5 v. )

6 JOSE DAVID GARCIA-GUTIERREZ, )

7 Defendant. )

2:19-CR-00176-RFB-VCF

**ORDER**

8 Based on the pending Stipulation between the defense and the government, and good  
9 cause appearing therefore, the Court hereby finds that:

10 1. The Government's response is presently due on Thursday, August 8, 2019.  
11 Counsel for both parties agree to the above-requested 7-day extension of time for the  
12 government to file its response to the pending Motion. Garcia is in custody pending trial  
13 but the brief 7-day extension will not disturb the September 2019 trial setting. Counsel for  
14 the defendant has represented that the defense does not oppose the proposed extension of  
15 time for the Government to file its response to the Motion.

16 2. The Motion does not include a transcript or recording of the detention hearing  
17 at issue. Government counsel obtained a copy of the recorded hearing late yesterday, August  
18 7, but will need additional time to review it and incorporate it into an appropriate response.  
19 Additionally, the defendant's disc that was manually served on the government, ECF 17  
20 Exhibit A, was defective. AFPD Wong provided a replacement disc late yesterday, August  
21 7, but the government will need additional time to review it and incorporate it into an  
22 appropriate response.  
23

3. The 7-day extension of time to file the government's response is not sought merely for purposes of delay. The additional time requested herein is necessary to allow the government sufficient time within which to be able to effectively and thoroughly investigate, research, and respond appropriately to the Motion. Trial is set for September 23, 2019. The 7-day extension will not disturb the parties' ability to proceed to trial on that date, and is not unduly prejudicial to the defense.

4. The parties agree that the government shall have an additional seven days, up to and including Thursday, August 15, 2019, in which to respond to the Motion.

5. Denial of this request for additional time would deny the parties the opportunity of having continuity of counsel, taking into account the exercise of due diligence. Further, denial of this request could result in a miscarriage of justice and the ends of justice served by granting this request, outweigh the best interest of the public and the defendant in a speedy trial.

6. The additional time requested by this stipulation is excludable in computing the time within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States Code, Sections 3161(h)(1)(D), and 3161(h)(7)(A), considering the

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/ / /

1 factors under Title 18, United States Code, Section 3161(h)(7)(B)(i) and (iv).

2 This is the first request to extent the government's time to respond to the Motion. 1.

3 THEREFORE, IT IS HEREBY ORDERED that the government shall have  
4 an additional seven days, up to and including Thursday, August 15, 2019, in which to  
5 respond to the defendant's motion.

6 DATED this 9th day of August, 2019.

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HONORABLE RICHARD F. BOULWARE, II  
9 UNITED STATES DISTRICT COURT JUDGE